

**MOSS v. BALLARD**  
**CASE NO. 2:09cv01406**

**RESPONDENT'S EXHIBIT 33**  
**(Continuation, appendix [Murphy Depo to bn000039])**

Page 3

1 (Witness sworn)  
2 THEREUPON came  
3 ROBERT MURPHY  
4 called as a witness herein, who, having been first duly  
5 sworn according to law, testified as follows:  
6 EXAMINATION  
7 BY MR. SIMMONS:  
8 Q Mr. Murphy, my name is Lonnie Simmons. I  
9 represent John Moss, III, in a habeas corpus action here in  
10 Kanawha County. I guess I've met with you once before.  
11 The purpose of this deposition is to create a record in  
12 connection with this habeas corpus proceeding. I usually  
13 put on the record in these things that in habeas corpus  
14 actions clients don't have an absolute right to be present  
15 and my client is aware of that fact and so I've talked to  
16 him and he knows that I'm doing this today, and my plan is  
17 simply to get some information from you so we'll have it on  
18 the record and this will become part of the record in a  
19 habeas corpus action. Would you state your name for the  
20 record, please?  
21 A Robert C. Murphy.  
22 Q Mr. Murphy, where are you currently  
23 employed?

Page 4

1 A CT & E Environmental Services in  
2 Charleston.  
3 Q Okay. Now, how long have you been employed  
4 by that company?  
5 A A little over seven years.  
6 Q Before we get the rest of your work history  
7 with the state police, what's your educational background  
8 as far as college and onward?  
9 A Bachelors degree in chemistry from Rutgers  
10 University. I also attended the West Virginia University  
11 Graduate School of Chemistry and Marshall University  
12 Graduate School also in chemistry, a number of short  
13 courses put on by professional organizations, the American  
14 Academy of Forensic Sciences and the Southern Association  
15 of Forensic Science.  
16 Q Okay. When you say you did some post-  
17 graduate studies at Marshall and WVU in chemistry, did you  
18 obtain any additional degree or were these just additional  
19 classes?  
20 A No. It was the equivalent of a masters  
21 degree, but I did not receive a masters degree. It was  
22 about thirty-some hours.  
23 Q When were you first employed by the

Page 5

1 Department of Public Safety in West Virginia?  
2 A December of 1971.  
3 Q And in what capacity were you first employed  
4 by the Department of Public Safety?  
5 A As a chemist. At that time, chemists were  
6 considered generalists, which means you worked on anything  
7 related to a particular case regardless of whether it was  
8 drugs or soils or whatever.  
9 Q Hair? Could you do hair analysis?  
10 A Uh-huh. Whatever was involved in that case.  
11 Q Okay.  
12 A Three or four years later, the mid 70's,  
13 started specialization where you would focus on one  
14 particular area.  
15 Q What area did you focus on three of four  
16 later?  
17 A Serology.  
18 Q So approximately from '74, '75 till when did  
19 you focus exclusively on serology?  
20 A Pretty much.  
21 Q When did you leave the state police?  
22 A I left the state police in-- well, I  
23 resigned October of '82, but I had been out of serology for

Page 6

1 approximately a year. There had been, let's see, one  
2 resignation and one retirement, which left a void in the  
3 drug analysis area and I shifted to fill in for that. So  
4 it was about a year prior to my leaving.  
5 Q Did there come a time when you were the head  
6 of the serology division of the state police?  
7 A Yes, sir.  
8 Q About what year did that happen?  
9 A It was never an official position.  
10 Q Okay.  
11 A I was the senior serologist, so I more or  
12 less supervised.  
13 Q Do you know approximately when that would  
14 have occurred that you more or less supervised the other  
15 serologists?  
16 A Until 1976 when I believe Fred Zain was  
17 hired, I was the only serologist, so there was no one to  
18 supervise. At the time he was hired, basically I became  
19 the supervisor.  
20 Q We'll get into that a little bit more.  
21 When you-- What was the reason for leaving in October of  
22 '82?  
23 A It was personal.

Page 7

Page 9

1 Q Okay. Sometime after '82, did you start  
2 working for the company you mentioned in the beginning?

3 A Well, when I left the state police, I went  
4 to work for the Department of Natural Resources as a  
5 chemist and I was with them until March of 1988.

6 Q Okay.

7 A And then I left there to work for this  
8 private commercial testing company.

9 Q Okay. Well, during the time that you worked  
10 for the state police, I take it you testified as an expert  
11 in serology in a number of cases?

12 A Quite a few. Yes, sir.

13 Q During the time that you were there, you  
14 were essentially the main serologist?

15 A Yes, sir, I was.

16 Q Okay. I think you mentioned that Fred Zain  
17 was hired in 1976. At the time that Fred Zain was hired,  
18 were there any other serologists besides yourself in the  
19 department?

20 A There was one other person who was not  
21 actively doing it, but had been basically my trainer. That  
22 was a Sergeant White, but he was not actively doing the  
23 serology work.

1 he was competent. Other than that, no.

2 Q Did you have any knowledge at that time  
3 about Fred Zain's educational background and his chemistry  
4 background in particular?

5 A No, sir. Like I say, I may have seen a  
6 resume, but I didn't pay a whole lot of attention to it. I  
7 might mention that the state police basically followed  
8 civil service regulations where a person could be  
9 classified as a chemist even if their degree were in some  
10 other natural science, and for that reason, I didn't pay a  
11 whole lot of attention to what his degree was.

12 Q So beginning in 1976 when Fred Zain was  
13 hired, I take it you supervised, generally supervised his  
14 work?

15 A Yes, I did.

16 Q Do you have any general opinions about the  
17 work performed by Fred Zain that you observed yourself?

18 A My personal experience was, I had no  
19 problems with his work. He was competent. He was a good  
20 analyst.

21 Q Okay. During the time that you supervised  
22 Fred Zain's work, do you recall having any particular  
23 arguments or disputes with him over the analysis in a

Page 8

Page 10

1 Q So when Zain was hired in 1976 were the only  
2 serologists in the department at that time you and Mr.  
3 Zain?

4 A Yes, sir. Uh-huh.

5 Q Let's talk about the hiring of Fred Zain.  
6 Were you involved in the decision to hire Fred Zain in any  
7 way?

8 A I believe I interviewed him, but that was  
9 only to basically obtain my opinion as to whether he was  
10 competent to do the work. I had no role in the actual  
11 decision. I talked to him, I may have seen a resume, but  
12 other than that, I mean, I didn't have a role in his  
13 hiring.

14 Q Do you have any recollection of the  
15 interview with Mr. Zain and/or what your impressions were  
16 at that time?

17 A As best as I can remember, I felt he was  
18 competent, that he was capable of doing the work. Other  
19 than that, I have no details as to the interview.

20 Q Do you recall making any kind of a  
21 recommendation to the other persons involved in the hiring  
22 process?

23 A I probably expressed my opinion that I felt

1 particular case?

2 A No, sir.

3 Q Were you ever aware of any cases where Fred  
4 Zain said that he saw a marker in a given test and you did  
5 not see a marker in that test?

6 A No, sir.

7 Q Had you heard any of the stories about the  
8 magic wand in the laboratory?

9 A In the newspapers, but not-- I have no  
10 personal knowledge. Just from what I've read.

11 Q But not at the time you worked in the lab  
12 with Mr. Zain, you hadn't heard of the magic wand?

13 A No.

14 Q Okay. I'd like to turn to the case that  
15 we're dealing with here. I just wonder, sitting here  
16 today, do you recall working on what I'll call the  
17 investigation of the Reggett murders?

18 A Yes, sir.

19 Q What's the first thing you can remember  
20 about this case, your earliest memory of having any  
21 involvement in the investigation of those three murders?

22 A The fact that there had been three murders  
23 and someone had to go to the crime scene to collect

Page 11

Page 13

1 evidence and it was determined that Fred Zain would be the  
2 person that went actually to the scene. I might mention  
3 the reason I remember this case is, it was an unusual  
4 case.

5 Q Can you recall if there is any particular  
6 reason why Fred Zain went to the crime scene versus  
7 yourself?

8 A I can't recall how that decision was made,  
9 but he was the one that was sent to the scene.

10 Q Do you recall being involved in that  
11 decision-making process?

12 A Not really, no.

13 Q Was it common for a serologist to go to the  
14 scene of a crime and actually obtain the samples of  
15 evidence to be tested later?

16 A No, sir, not really.

17 Q Other than this case, can you recall any  
18 other examples of cases where the serologist went to the  
19 scene of the crime to obtain the samples?

20 A Yes, sir. I can recall one case in which I  
21 was sent to Martinsburg to obtain samples from a vehicle.  
22 There was also a fingerprint examiner that was sent at the  
23 same time.

1 Q Let me just focus on one thing about the lab  
2 at that time, and we're talking about around December of  
3 1979. Did the laboratory at that time have any written  
4 protocol on laboratory procedures, first of all?

5 A No, sir.

6 Q Okay. And how about any written protocol on  
7 obtaining evidence at the scene of a crime?

8 A No, sir.

9 Q Did they have any written protocol on  
10 anything at that time--

11 A No, sir.

12 Q December of '79?

13 A No, sir.

14 Q So the lab at that time essentially didn't  
15 have any written protocol about how serological tests, hair  
16 tests, any tests you can think of, there simply was no  
17 written protocol?

18 A No, sir.

19 Q Okay.

20 A That was a concept that was coming into  
21 place but was not in place. In the early '80s that came  
22 into place, but up till that point, the general procedure  
23 was, you followed generally accepted procedures, but not

Page 12

Page 14

1 Q What was it about the Martinsburg case you  
2 just mentioned that someone decided they wanted you to go  
3 there in person?

4 A I really can't say. I mean, it was-- I was  
5 told I was going and that was-- I didn't have any say in  
6 the matter.

7 Q Sure. Okay. As a serologist, were you  
8 trained in how to obtain evidence from the scene of a  
9 crime?

10 A Not specifically. I was trained on how to  
11 basically preserve samples, how they were to be handled,  
12 but as far as what samples were to be taken, no.

13 Q Okay. Are you aware of whether or not Mr.  
14 Zain at that time, and this would have been in December of  
15 1979, had had any training in the procedure for obtaining  
16 evidence at the scene of a crime?

17 A Probably not. I think that at that time  
18 period a lot of this was what I would call common sense.  
19 You basically chose the samples based on what you perceived  
20 to be important and then you took whatever precautions were  
21 necessary to make sure that the integrity of those samples  
22 was maintained. As far as formal training in collecting  
23 evidence, I don't recall any training at all.

1 necessarily anything written down, just what was considered  
2 generally accepted in a forensic laboratory, and it was  
3 unwritten but well understood among forensic chemists, not  
4 necessarily anyone else, but it was pretty much understood  
5 among forensic chemists what was acceptable and what was  
6 not.

7 Q Did the laboratory at that time-- and again,  
8 this is December of 1979-- did it have any procedure for  
9 routinely testing the various materials used in serological  
10 testing to make sure that, in other words, sort of a  
11 quality control type, quality control/quality assurance  
12 kind of a program, was there any kind of program like that  
13 in place at that time?

14 A No, sir.

15 Q Okay. Do you know if at that time, December  
16 of 1979, that the lab did test the materials that were used  
17 in serological testing, for example, to ensure the quality  
18 and that sort of thing?

19 A Not the materials themselves. There was  
20 indirect testing in that known blood samples, that was from  
21 members of the criminal identification bureau donated blood  
22 samples and they were tested routinely. They were the  
23 standards that were used. If there had been a problem with

Page 15

Page 17

1 the materials, the chemicals, then it would have shown up  
2 in those tests. But as far as separate testing, it was not  
3 done.

4 Q I take it you did not go to the crime scene  
5 when Fred Zain went to obtain evidence samples; am I right  
6 about that?

7 A You're correct about that. I did not go.

8 Q When Fred Zain came back to the lab and this  
9 is again, we're talking-- let me make sure I'm right here,  
10 around December 13th and 14th of 1979, and let's say he  
11 started bringing stuff back to the lab, do you recall any  
12 discussions you had with Mr. Zain at that time? I  
13 obviously understand a whole heck of a lot of time has  
14 passed, but I'm just asking if you recall any conversations  
15 you may have had with Mr. Zain when he returned from the  
16 crime scene?

17 A Not specifically, no. I'm sure there was  
18 some discussion, but I have no idea what it might have  
19 been.

20 Q Would you have any knowledge as to whether  
21 or not Mr. Zain used rubber gloves and things like that  
22 when he was at the crime scene obtaining these samples?

23 A No, sir, and I can't recall what samples he

1 BY MR. SIMMONS:

2 Q For the time being, if you would just maybe  
3 kind of glance through that and we'll be more specific as  
4 time goes on, but I was actually going to ask you a couple  
5 of questions about the report.

6 A (Witness examines document.)

7 Q Now, have you had a chance to just generally  
8 glance at the report? I know there are some other  
9 documents there, but we'll get into more detail here  
10 shortly. I had some preliminary questions before I started  
11 asking you some specifics about that.

12 Once these items that were collected at the  
13 crime scene were brought back to the laboratory, do you  
14 recall who was involved in performing serological tests on  
15 the various items recovered?

16 A To the best of my recollection, I was  
17 involved in most of the testing.

18 Q Okay.

19 A I don't know that I saw-- that I did  
20 everything, but I did see all of the results.

21 Q Who else would have been involved in the  
22 testing?

23 A Fred Zain.

Page 16

Page 18

1 may have taken as opposed to the fingerprint examiners and  
2 medical examiner. There were quite a few people at the  
3 crime scene and I have no idea who collected what.

4 Q Do you have any knowledge about the  
5 procedures that Fred Zain followed when he obtained those  
6 samples from the crime scene?

7 A No, sir.

8 Q Were you aware of how he packaged those  
9 samples at the crime scene?

10 A No, sir.

11 Q Let me have an exhibit marked here. I'll  
12 tell you what I've done just so you'll understand. I've  
13 copied the documents that were produced, that Ted Smith, I  
14 guess, got off the microfiche, and I've had them Bates  
15 numbered because at some point I'm going to have Mr. Murphy  
16 identify which ones he thinks he wrote and which ones he  
17 didn't, so I was going to have this marked as Deposition  
18 Exhibit 1 and here's your own copy with the Bates number at  
19 the bottom.

20 (WHEREUPON, the document referred  
21 to was marked for purposes of  
22 identification as Deposition Exhibit  
23 No. 1 and is attached hereto.)

1 Q And maybe-- I think beginning in this  
2 Deposition Exhibit No. 1, beginning, it's the Bates number  
3 four, is the first sheet of a report dated June 10, 1980.  
4 Do you have a general recollection of doing that report  
5 yourself?

6 A To the best of my recollection, I did write  
7 the report.

8 Q I've got a general question about the  
9 procedures in the laboratory. What is the significance of  
10 the date June 10th, 1980?

11 A That should have been the date of the  
12 report. The date it was issued.

13 Q Let me ask you this. Would that be the date  
14 that someone in the secretarial pool typed it out or would  
15 that be the date you actually maybe wrote a handwritten  
16 version and then it was typed out?

17 A I can't remember.

18 Q You don't know?

19 A No.

20 Q Okay. Is it possible there's some sort of  
21 delay between when you wrote the report in your own  
22 handwriting and it being typed out?

23 A There is a possibility, yes.



Page 19

Page 21

1 Q Okay. On page, and I'm referring to the  
2 Bates number, it's page two of the report, Bates number  
3 five.  
4 A Uh-huh.  
5 Q It lists items one through seventeen and  
6 then it says, "The above items were recovered from the  
7 scene by Trooper F.S. Zain 12/13/79."  
8 A Uh-huh.  
9 Q Would that date-- so that's the date it was  
10 recovered. Do you have any knowledge as to when you would  
11 have received those in the laboratory or is that just not  
12 shown in your report?  
13 A They would have been received in the  
14 laboratory the same day.  
15 Q Okay. Then on down on that same page, this  
16 is Bates number page five, page two of the report.  
17 A Uh-huh.  
18 Q It talks about a blood specimen from Vanessa  
19 Reggett and a nightgown. "The above items were received  
20 from Trooper M.D. Smith 12/14/79." When it says received,  
21 does that mean received at the lab?  
22 A Yes.  
23 Q Then down on the same page after listing it

1 see where it says, "VR"? It's to the left of those item  
2 numbers.  
3 A No, sir.  
4 Q Is that your writing?  
5 A No, it isn't.  
6 Q Okay. Then following-- let me see. I  
7 think we already talked about the flashlight from Shumate.  
8 There's a blood specimen from Paul Reggett, III, that was  
9 received on January 2nd of '80?  
10 A Uh-huh.  
11 Q The next items are a doll and table knife  
12 and some clothing that was received on January 17th of  
13 '80?  
14 A Right.  
15 Q And there's something written above that.  
16 Do you recognize that writing?  
17 A No, sir, I don't.  
18 Q Do you know-- can you read that? I'm not  
19 sure I can read that middle word.  
20 A No, sir.  
21 Q It's looks like 1/7/80 and then there's a  
22 word and then 3/11/80. Do you not have any idea what that  
23 means?

Page 20

Page 22

1 looks like a lot of clothing, "The above items were  
2 received from Trooper Terry Williams 12/14/79." So the lab  
3 would have had those pieces of clothing on that date?  
4 A That's correct.  
5 Q Then the next one, the blood specimens from  
6 Paul Eric Reggett and Bernadette Reggett, those were  
7 received on 12/17/79?  
8 A That's correct.  
9 Q Turn to the next page. There are some  
10 items, a Christmas package and a flashlight. It says,  
11 "Received on 12/18/79."  
12 A That's correct.  
13 Q That means the lab received it then?  
14 A The chemistry lab. Corporal Shumate was a  
15 fingerprint examiner and he probably collected those items  
16 himself.  
17 Q Okay.  
18 A And did his examination and then turned them  
19 over to the chemistry lab.  
20 Q By the way, before I pass this by, I guess  
21 starting on the first page of the report that was on the  
22 microfiche, there's some handwriting on the report and I  
23 just wondered if you recognized that handwriting? Do you

1 A No, sir.  
2 Q Okay. Next there's a list of names and  
3 apparently blood samples were obtained from them and  
4 received in the lab in January of 1980. I was wondering  
5 what information do you have as to why blood specimens were  
6 obtained from those individuals?  
7 A Okay. Since I talked to you the first time,  
8 I've thought about that a great deal. When the laboratory  
9 determined that someone else had been in that house, I hate  
10 to put it this way, but basically the state police went on  
11 a fishing expedition and rounded up a number of people in  
12 that area that were possible suspects and obtained blood  
13 samples from them to see if any of their blood specimens  
14 matched what was found in the house. They did not, but I  
15 mean, that's the reason for those samples.  
16 Q Do you recall any of the specifics as to why  
17 one name was on there versus another?  
18 A No, sir. They were just submitted to the  
19 laboratory as potential suspects and we examined them and  
20 ruled them out.  
21 Q Okay. The next item is stainless flatware  
22 that's also from Shumate and that's February 6th of '80.  
23 So is it possible that he tried to do fingerprint on that

Page 23

Page 25

1 and then he gave it to your lab?

2 A Yes, sir.

3 Q Then there are some additional, it looks  
4 like clothing items that were received February 7th of '80,  
5 and that means the lab received those February 7th of '80?

6 A That's correct.

7 Q Okay. And I think the final items submitted  
8 are two tubes of blood from John Moss and that's April 22nd  
9 of '80?

10 A That's correct.

11 Q Do you recall testifying before the grand  
12 jury, which resulted in the indictment of Paul Reggett,  
13 III, I think it is?

14 A Again, since talking to you, I've thought  
15 about that a great deal. The best of my recollection is, I  
16 have only testified before one grand jury and I believe  
17 that was for John Moss. I had nothing in the way of  
18 physical evidence to connect Paul Reggett to this case, so  
19 I would not have testified in the grand jury.

20 Q I understand a lot of time has passed by and  
21 I've found something since I met with you that might help  
22 refresh your recollection. I've got a couple of things  
23 here. Let's see. I would like to have this marked as

1 jury which indicted Mr. Reggett?

2 A It may have been the same grand jury, but I  
3 had no testimony related to Mr. Reggett.

4 Q Just to make it clear. I'd like to show  
5 you-- you testified-- let me see what the date of this one  
6 is-- on September 19th, 1983, and this is in-- this is the  
7 suppression hearing in the John Moss case before his first  
8 trial, and I would bring your attention to pages I think  
9 two fifty-five and two fifty-six, I think you'll see, and  
10 just see, if you'll look at that, see if that refreshes  
11 your recollection at all.

12 A (Witness examines documents.) Well, that  
13 was the grand jury.

14 Q Does that refresh your recollection?

15 A Again, to me it indicates that my testimony  
16 before the grand jury had no relationship to Paul Reggett.  
17 It was related to John Moss. I don't know if this is on or  
18 off the record, but once there was an inconsistency found  
19 in the blood sample that indicated someone else had been in  
20 the house, the state police were still convinced that Paul  
21 Reggett was involved and they were basically looking for a  
22 second party, an accomplice in effect.

23 John Moss met the criteria for an

Page 24

Page 26

1 Deposition Exhibit Number 2, please.

2 (WHEREUPON, the document referred  
3 to was marked for purposes of  
4 identification as Deposition Exhibit  
5 No. 2 and is attached hereto.)

6 BY MR. SIMMONS:

7 Q And ask that you look at that document.

8 A (Witness examines document.)

9 Q And particularly note the bottom of the  
10 second page.

11 A As I stated, I had no physical evidence  
12 connecting Paul Reggett with this case. There was some  
13 evidence obviously connecting John Moss. If I testified  
14 before the grand jury, it was in relationship to John Moss  
15 not to Paul Reggett.

16 Q Okay. Let me ask you this. I guess the  
17 reason why I'm asking, we have not been able to find the  
18 grand jury transcript from the grand jury which indicted  
19 Mr. Reggett and you might also note that on the first page  
20 of Deposition Exhibit Number 2, John Moss's name is  
21 mentioned in the indictment of Mr. Reggett, but he's not  
22 indicted. I guess what I'm trying to find out from you, do  
23 you have any recollection of testifying before the grand

1 accomplice, but that did not exonerate Paul Reggett. If  
2 the grand jury was looking at both people, as I said, there  
3 was no physical evidence connecting Paul Reggett to the  
4 crime. So when I appeared before the grand jury, I would  
5 have had nothing to say regarding Paul Reggett. It was  
6 only John Moss that I had any physical evidence that  
7 connected him.

8 Q Just so we make it clear, I think you stated  
9 that you, during the whole time you worked for the state  
10 police, you only testified before a grand jury on one  
11 occasion?

12 A The best as I can remember, yes, sir.

13 Q And that would be--

14 A That would be this one.

15 Q -- this one particular case?

16 A Uh-huh. I stated earlier this was an  
17 unusual case because the investigating officers, because  
18 they had a confession and because Paul Reggett's behavior  
19 was unusual, were convinced that they had the right person  
20 and the physical evidence indicated someone else was  
21 involved either totally or partially, and there was some  
22 resistance on the part of the investigators to pursue that  
23 because they would have rather explained it away than

Page 27

Page 29

1 pursue it because they felt they had the right person.  
2 Q Can you recall the names of these people  
3 that you're calling the investigators or the investigating  
4 officers? Can you identify who those people may have  
5 been?

6 A You've handed me some documents that could  
7 give me some names. I don't want to say I recall that.  
8 The South Charleston detachment commander was the principal  
9 contact, but there were people working under his  
10 supervision that were actually doing the investigation.

11 Having the seen the documents, I do recall  
12 Terry Williams as being one of the investigators. Again,  
13 the best I can recall, the South Charleston detachment  
14 commander was Corporal Cook and there were several Cooks  
15 so-- but there was some discussion back and forth about  
16 what evidence was and what it meant and what needed to be  
17 done and basically, as I said, there was some resistance to  
18 pursue this matter because they felt they had the right  
19 person.

20 And this puts me in an awkward position  
21 because I was a member of the state police. I'm not  
22 putting them down. They basically were following their  
23 instincts that they had the person and the laboratory was

1 cut, they bled and a drop of blood fell on that paper, and  
2 it would be difficult to plant that so--  
3 Q Let me ask you this. When the evidence from  
4 the crime scene was brought back to the laboratory, are you  
5 saying that the lab had the actual items such as the  
6 wrapping paper as opposed to having some swatch which had  
7 absorbed the blood from the wrapping paper?

8 A No, we had the actual wrapping paper.

9 Q Okay. So when the analysis was performed,  
10 you had in the laboratory the actual wrapping paper? Maybe  
11 there was a knife and some of the other items, you had the  
12 actual item itself?

13 A Yes, sir.

14 Q Well, as far as you can recall, were any of  
15 the blood stains obtained at the crime scene placed on  
16 swatches as opposed to actually bringing in the item of  
17 evidence itself?

18 A Not that I can recall. They were the actual  
19 items.

20 Q When-- let me ask you this. At-- this is  
21 again back in December of 1979. Did the laboratory have  
22 any kind of cataloging of types obtained in other cases?  
23 In other words, let me try to illustrate that.

Page 28

Page 30

1 producing contradictory evidence that said maybe you do and  
2 maybe you don't, and they wanted to believe that they were  
3 right so--

4 Q Did they ever-- do you recall any of the  
5 people involved in the investigation ever questioning any  
6 of your results or did they come up with any other kinds of  
7 theories to explain them away?

8 A Yes. Again, the detachment commander of  
9 South Charleston tried to explain away our results by  
10 trying to say that Paul Reggett had planted blood at the  
11 scene to throw us off the track and again, it was well  
12 intentioned. They thought they had the right man and they  
13 were trying to explain away the inconsistencies, and I  
14 won't say it was a heated discussion, but it was a little  
15 agitated, and we tried to say that no, we didn't believe  
16 that, someone else was in that house, and we wouldn't buy  
17 their trying to explain it away.

18 On the Christmas wrapping paper, in  
19 particular, which to this day to me is the key piece of  
20 evidence, there was a very distinct drop of blood and it  
21 would be difficult to plant that. I mean, you could smear  
22 it, you could do a lot of things, that didn't look like  
23 anything other than what it appeared to be. Someone was

1 A A data base?

2 Q A data base, yeah. If you got say a PGM 1+  
3 and an ABO B, did you have a way of looking through your  
4 files and saying, "Well, hey we got this from this case"?

5 A No. That was something that was under  
6 consideration, but was not in place.

7 Q So when you received the reference sample of  
8 blood from John Moss on April 22nd, 1980, the lab did not  
9 previously have any knowledge whatsoever of any of his  
10 types from any source?

11 A As far as I can recall, no. I mean, we did  
12 not have a data base that we could reference.

13 Q How about if Mr. Moss was incarcerated in  
14 another state? I guess what I'm wondering is whether or  
15 not your lab had contacted the other state to find out if  
16 they had done any blood testing? In other words, I'm  
17 trying to find out if you had any knowledge of his blood  
18 types before you received that reference sample?

19 A As far as I can recall, the laboratory never  
20 contacted any other state and should not have had any  
21 reference to what his blood typing was.

22 Q Okay. Let's just-- so I can get this part  
23 out of the way, let's turn in Deposition Exhibit Number 1



Page 31

Page 33

1 to it's Bates number ten, and what I'd like to do is have  
2 you look at that and determine if you recognize the writing  
3 on Bates number page ten?

4 A That is mine.

5 Q Okay. Maybe for purposes of this  
6 proceeding, if you would-- I'll give you a pen-- if you  
7 would write just "Murphy" at the bottom of that page and  
8 that way we'll be able to keep these straight.

9 A (Witness complies.)

10 Q Okay. Now, what would-- the fact that this  
11 particular document is in your writing--

12 A Uh-huh.

13 Q -- what is the significance of that other  
14 than the fact that you wrote it?

15 A This basically is a compilation of all the  
16 parties involved or potentially involved and a summary of  
17 all the blood groupings. Just a tabular way of excluding  
18 people or including people.

19 Q Would this sheet in your handwriting  
20 indicate that you had performed all of those tests or does  
21 that not indicate that?

22 A Not necessarily.

23 Q Okay.

1 Q Okay.

2 A In the initial setup of serology, there were  
3 separate tests for determining whether a sample was blood  
4 and a second examination to determine if it was human  
5 blood.

6 Q Okay.

7 A When all of the enzymes and proteins were  
8 added, those became pretty much irrelevant, and possibly  
9 those first two columns are whether it is blood and whether  
10 it is human, but I'm just guessing.

11 Q Okay. Let's go ahead and go to Bates number  
12 page eleven and I'd ask you to first of all let me know if  
13 you-- first of all, is that in your handwriting?

14 A No, sir, it is not.

15 Q Okay. Do you recognize whose handwriting  
16 that is?

17 A No, sir.

18 Q Would you-- well, let me put it this way.  
19 Only you and Fred Zain performed the serological testing in  
20 this case; that is correct, isn't it?

21 A I'm not certain of that. There were two  
22 other serologists and I can't recall when they were hired  
23 and whether they were present at the time. That was Lynn

Page 32

Page 34

1 A But, as I stated earlier, I would have seen  
2 the results.

3 Q And would you say that-- I think you  
4 described this as a compilation. So this is a compilation  
5 sheet as opposed to being the original, what I call the raw  
6 data sheet that was filled out when the testing was  
7 actually done; would that be correct?

8 A That is a fuzzy area because the way of  
9 keeping notes was in transition. It is possible that this  
10 is the actual bench sheet where things were recorded here,  
11 but it's also possible this is a summary sheet and there  
12 were other sheets for individual tests. I can't recall.

13 Q In the first column across before you have  
14 the names listed, in other words, the column that is on top  
15 of the column where the names are, it looks like it says  
16 "JAN"; is that correct, or does that have any meaning to  
17 you?

18 A Probably just January.

19 Q And going from left to right, what does that  
20 first column-- do you know what that word is? I know it's  
21 very, very hard to see. I just didn't know if you might  
22 recall from doing the sheets what that first column is for.

23 A No, sir.

1 Inman and Gale Midkiff, and I'm not sure if they were there  
2 at the time or not. They may have been.

3 Q Okay. So--

4 A But probably on this case the work was done  
5 by myself or Fred Zain.

6 Q Do you have any specific recollection of  
7 Inman or Midkiff performing work in this case?

8 A No, sir.

9 Q Well, how about on this sheet, simply put  
10 "Not Murphy." That way we'll distinguish between what  
11 you're actually able to identify and what you're not.

12 A (Witness complies.)

13 Q Okay. And let's go to Bates number page  
14 twelve, and it looks like at the top half of the page  
15 there's writing that's different from the bottom half of  
16 the page, and I wonder first of all, do you recognize any  
17 of the writing on that page as being your writing?

18 A The bottom half is mine.

19 Q The one that's in print?

20 A Uh-huh.

21 Q And the top half is not yours?

22 A No, it isn't.

23 Q And again, you don't have any recollection

Page 35

Page 37

1 as to whether or not this is a compilation based upon raw  
2 notes or if this actually is the raw notes?  
3 A No, sir.  
4 Q Let me ask you this. Since the top half of  
5 that page is in someone else's handwriting other than  
6 yourself, do you take it from looking at this sheet that  
7 somebody else performed the examination of those items  
8 listed on the top of that page?  
9 A Probably.  
10 Q Maybe on this sheet, you should put "Bottom  
11 Murphy," maybe would be a way to distinguish.  
12 A (Witness complies.)  
13 Q Turning to Bates number thirteen, do you  
14 recognize any of that as being your handwriting?  
15 A No, sir.  
16 Q Okay. Why don't you just write "Not Murphy"  
17 on that?  
18 A (Witness complies.)  
19 Q Then on Bates number fourteen, which is a  
20 copy of, I think if you'll look at it, it's the back-side  
21 of Bates number thirteen. Do you see the initials "FSZ" on  
22 the top of that page?  
23 A Yes, sir, I do.

1 case performed by any person other than yourself or Fred  
2 Zain?  
3 A I can't recall.  
4 Q So you think it's possible that some of the  
5 work may have been done by Inman and Midkiff in this case?  
6 A It's possible.  
7 Q Okay.  
8 A Again, to the best of my recollection, I saw  
9 the results.  
10 Q But you do specifically recall reviewing  
11 some serological testing in this case that was performed by  
12 Fred Zain?  
13 A Yes, sir.  
14 Q Let's see. I think there are some other  
15 sheets near the back here that we probably ought to have  
16 identified.  
17 MS. KERSHNER: Thirty-five?  
18 BY MR. SIMMONS:  
19 Q Yeah, if you would turn to Bates number  
20 thirty-five.  
21 A Thirty-five?  
22 Q Yeah. And I'd ask you, is that your  
23 handwriting?

Page 36

Page 38

1 Q And that stands for Fred Salem Zain?  
2 A Right.  
3 Q So obviously this would be a page that you  
4 ought to put "Not Murphy" on, I assume; right?  
5 A Uh-huh.  
6 Q Okay. And it looks like Bates number  
7 fifteen, sixteen, seventeen, eighteen. It looks like it's  
8 the handwritten version of the typed report?  
9 A That's correct.  
10 Q And that is your handwriting?  
11 A Yes, sir.  
12 Q So if you wouldn't mind, if you'd write  
13 "Murphy" on those particular pages, please?  
14 A (Witness complies.)  
15 Q I think we can skip a few pages. There are  
16 some case submission reports that it looks like Inman  
17 received something, so she was there at least in January of  
18 '80.  
19 A Okay. I kind of thought that Inman and  
20 Midkiff were there, but--  
21 Q Okay. Well, let me ask you this. You  
22 mentioned that you reviewed the results. Do you recall  
23 reviewing the results of any serological testing in this

1 A No, sir.  
2 Q Okay. If you would just write "Not Murphy"  
3 on there, please?  
4 A (Witness complies.)  
5 Q And also thirty-six.  
6 A Thirty-six.  
7 Q Would you also say that's not Murphy?  
8 A That's not Murphy.  
9 Q Okay. The next document, Bates number  
10 thirty-seven is some kind of a map. Were you involved in  
11 drawing that diagram? Not a map, but a diagram.  
12 A No, sir.  
13 Q Do you know who did?  
14 A No, I don't.  
15 Q We won't mark anything on that one. How  
16 about Bates number thirty-eight? Is that your writing?  
17 A No, sir.  
18 Q Okay. Why don't you go ahead and write "Not  
19 Murphy" on there?  
20 A (Witness complies.)  
21 Q In looking at that sheet, does that have any  
22 significance to you? Can you understand what that person  
23 was doing?

Page 39

Page 41

1 A Not really.

2 Q Okay. Let's see here. I guess the final  
3 group of documents I'd just like to see if you've seen  
4 before. Starting with forty-one, forty-two, forty-three,  
5 forty-four, forty-five and forty-six, do you recognize  
6 those documents at all? Not necessarily the writing, but  
7 just those document?

8 A No, sir, I don't.

9 Q Does it even look familiar as maybe a way of  
10 maintaining the chain of custody, anything like that?

11 A It appears to be a summary of the custody of  
12 evidence, but I don't remember this.

13 Q Okay. I think we're going to be done with  
14 those documents for the time being. Once you obtained the  
15 blood types from Vanessa Reggett, Paul Eric Reggett and  
16 Bernadette Reggett, isn't it true that you could deduce  
17 what the types of Paul Reggett, III, as the father would  
18 be, presuming he's the natural father?

19 A Not necessarily specifically, but within a  
20 certain category, yes, and the conclusion was that there  
21 was blood at the crime scene that either Paul Reggett, Sr.  
22 was not the father of those children or someone else was  
23 there, and it was the laboratory that requested the sample

1 have to have?

2 A That's correct.

3 Q Do you recall if you had found any types at  
4 the crime scene that could not have been deposited by the  
5 natural father under these facts?

6 A Right.

7 Q And I wonder if maybe you know off the top  
8 of your head or if you'd like to look through it, if you  
9 can point me out an example.

10 A Well, the Christmas wrapping paper was the  
11 one that stood out as not being consistent.

12 Q Okay.

13 A And that sample was the one that prompted us  
14 to ask for a sample of Paul Reggett's blood to begin with,  
15 because, as I said, either someone else was there or he was  
16 not the natural father.

17 Q Just for purposes of illustration, on page  
18 eleven of the petition I've got listed the types that were  
19 obtained from the Christmas wrapping paper and then on page  
20 eight of the petition, I have the table of the known types  
21 from, you know, the various reference samples. I wondered  
22 if you could just explain and illustrate what type you  
23 found from the Christmas wrapping paper that you knew could

Page 40

Page 42

1 of blood from Paul Reggett.

2 Q Was the main purpose for getting the blood  
3 sample from Mr. Reggett to essentially establish that he  
4 was in fact the natural father?

5 A It was more to determine who the unknown  
6 blood came from. The assumption was that he was the  
7 natural father, but that was not the primary purpose. The  
8 primary purpose was to determine-- here we have an unknown  
9 blood sample. It doesn't match any of the three victims.  
10 It's got to belong to someone, so test Paul Reggett first.  
11 If it matches, okay, and if doesn't, then start looking for  
12 someone else.

13 Q Do you-- well, maybe this will-- let me just  
14 ask you a couple of questions here. I think based upon the  
15 testing in this case and your report and the various  
16 documents, various tables were made of the blood types that  
17 were obtained and this has been included in the petition  
18 for writ of habeas corpus and let me see if I can find a  
19 specific example of-- and it might help you to look at  
20 these, but I just wondered if, were there any types-- let  
21 me start over again. You mentioned that by knowing the  
22 types of the mother and the two children, you can  
23 essentially deduce the range of types that the father would

1 not have been deposited by the natural father? And I don't  
2 know if you can do that or not. but if you would look at  
3 those.

4 A It's been fifteen years.

5 Q Sure. I understand that.

6 A (Witness examines document.) In particular  
7 the ESD, the esterase. For each of these people to have a  
8 one, it means both parents had to be a one, because it's  
9 basically one/one. The Christmas wrapping paper was a  
10 two/one and known of the members of the Reggett family had  
11 the two to contribute, so the two/one had to come from  
12 someone else.

13 Q Okay.

14 A Now, there maybe some others, but--

15 Q That's a good example. I just wanted to  
16 illustrate that.

17 A Okay.

18 (WHEREUPON, a discussion was held  
19 off the record.)

20 BY MR. SIMMONS:

21 Q I'd just like to ask you the final part,  
22 just some general questions to make sure I understood what  
23 your thought process was in interpreting the samples you

Page 43

Page 45

1 obtained and the statistics that you came up with. In this  
2 case, what was the purpose for obtaining reference samples  
3 from Vanessa Reggett, Bernadette Reggett, Paul Eric  
4 Reggett and Paul Reggett, III?

5 A There were blood stains at the scene and  
6 basically the purpose was to try to account for all of the  
7 blood stains there and attribute them to a particular  
8 person or group of persons. This was a fairly common  
9 procedure at crime scenes and basically you try to  
10 reconstruct what happened. In other words, it sounds a  
11 little crude, but who bled where, and you can sometimes  
12 tell a sequence of events by doing that. So it was a  
13 routine practice to try to attribute blood stains in  
14 various areas of the crime scene with various people and  
15 that, like I say, was routine procedure.

16 Q Okay. Is one purpose for obtaining  
17 reference samples to compare those known types with the  
18 types you obtained from the scene where you don't know who  
19 deposited the particular blood sample?

20 A Right.

21 Q What analysis did you use to account for the  
22 possibility-- well, strike that. Let me do it this way.  
23 Based upon your training and experience with serological

1 fifty/fifty, that the activity demonstrated in the exam  
2 would not be equal. So you would see in the pattern  
3 exhibited, you would see an inconsistency in the intensity  
4 of the bands produced. And that would indicate that you  
5 had a mixture. Not proof, but there would be an  
6 indication.

7 When I said you're biased, you have to  
8 consider not only the test result, but the source of the  
9 sample you used and when there is, as I said, a discreet  
10 drop of blood, then you're pretty well assured that that is  
11 a single source.

12 Q Let me go back to the question. I  
13 understand you have some other theories, or rather  
14 explanations or whatever and I'll be glad to get into that,  
15 but I just wanted to start with, the first question is,  
16 looking at the testing alone and the types that are  
17 obtained--

18 A Huh-uh.

19 Q -- can basic serological-- will you agree  
20 with me that using basic serological testing, you cannot  
21 distinguish between a mixture of blood from the source or  
22 whether it came from a single source?

23 A No, sir.

Page 44

Page 46

1 testing, you were aware of the fact that this kind of  
2 serological testing is unable to distinguish between a  
3 mixture of blood from two different sources and blood from  
4 one source?

5 A No, sir.

6 Q You disagree with that?

7 A I disagree with that.

8 Q So it's your-- based upon your understanding  
9 and expertise, this kind of what I always call it is basic  
10 serological testing, is able to distinguish between a  
11 mixture of blood from two different samples; is that  
12 correct?

13 A You're biasing the question because there's  
14 more involved than just the test itself. You have to look  
15 at the source of the sample. In other words, as I stated,  
16 on the Christmas wrapping paper, there was a discreet drop  
17 of blood. Now, if that had been a smear, then there would  
18 have been the possibility that that smear was more than  
19 one. But a discreet drop is invariably a single source.

20 So taking that into account, along with the  
21 test results and again, a mixture would indicate-- well,  
22 there would be variability in the test result in that if  
23 you had two bloods mixed together, unless they were exactly

1 Q Okay. So you still disagree with that,  
2 even without this other explanation that you have, where  
3 you have to go beyond that? So you're saying, for example,  
4 if I had a tube of blood from you and I had a tube of blood  
5 from myself and I put them in a flask and I shook them up  
6 and I poured it at a crime scene and you tested it, if you  
7 strictly did serological testing, you would be able to  
8 separate my blood from your blood?

9 A I wouldn't say I could distinguish them, but  
10 I would recognize that it was not a single source and I'm  
11 talking as a very experienced serologist.

12 Q You would recognize it was not a single  
13 source because of the variations in the intensity of the  
14 bands?

15 A Uh-huh.

16 Q Okay. Using my illustration again-- let's  
17 use my illustration again. Let's say you only did ABO  
18 testing and let's say that you and I are both ABO O, how  
19 would you distinguish between our bloods under that  
20 circumstance?

21 A No way.

22 Q You wouldn't be able to do that?

23 A No, sir.



Page 47

Page 49

1 Q So the only way that you would be able to  
2 distinguish using basic serological testing is if the  
3 particular typing system you're using, we differ under that  
4 system; would that be correct?

5 A That's correct.

6 Q Is it your opinion under that illustration I  
7 gave you, that there would necessarily be a difference in  
8 the intensity of the bands?

9 A Unless the mixture was exactly  
10 proportionate, there would be a difference in the  
11 intensity. So, I'm not ruling out the possibility that it  
12 could be deceptive, but I'm saying it would take  
13 extraordinary circumstances.

14 Q Okay.

15 A Under normal conditions, a mixture which  
16 would not be exactly proportionate, you would see a  
17 difference in the intensity of the bands.

18 Q Let's just stick with that illustration.  
19 Let's say that you and I, under that illustration, had the  
20 same ABO type O, but I'm PGM 1+ and you're PGM 2+. Under  
21 that scenario, if you tested this blood that was mixed  
22 together and placed on the carpet, you would anticipate  
23 when you did the PGM test seeing a band that demonstrated a

1 drops on the wrapping paper. Do you assume under that  
2 scenario that there was a single source for each separate  
3 blood drop?

4 A No, sir.

5 Q Okay.

6 A Each drop would have been examined  
7 independently.

8 Q Okay. Let's go ahead and turn to the  
9 specifics of this case. Let's say the Christmas wrapping  
10 paper, do you recall if this scenario happened at all?  
11 Let's say there were two drops on the wrapping paper and  
12 let's say you ran ABO, PGM on one drop and GLO and ESD on  
13 the other drop. Would that have happened or go ahead and--

14 A No.

15 Q -- maybe you can explain how you did it?

16 A If that had happened, that would have been  
17 reported separately.

18 Q Okay. You would not have combined those  
19 results?

20 A No. No, sir.

21 Q The lab also at that time, I assume, would  
22 not have accumulated samples let's say from the sheet.  
23 Let's say there were different drops all over the sheet,

Page 48

Page 50

1 1+ and a band that demonstrated a 2+; would that be  
2 correct?

3 A Uh-huh.

4 Q And depending on the amount of the mixture,  
5 you would anticipate seeing a variation in the intensity?

6 A That's correct.

7 Q Let's say that you see a variation in the  
8 intensity of the bands. How would you report those  
9 results?

10 A I can't recall having experienced that, but  
11 it would have to be reported as a two/one, but qualified as  
12 being abnormal.

13 Q So it's possibly you have two/one, it's  
14 possibly a 2+ mixed with a 1+?

15 A Correct.

16 Q All right.

17 A As I said, qualified. In other words, it  
18 could be this, it could be this, it could be this. There's  
19 no way to determine it.

20 Q Okay. You know, in your explanation you  
21 talked about a single blood drop on say the wrapping paper?

22 A Uh-huh.

23 Q Let's say there are three separate blood

1 but one drop wasn't enough to perform the different enzyme  
2 testing. Your lab would not at that time have combined  
3 those together and then done the testing?

4 A No, sir. Whatever was reported, was  
5 reported from a single sample.

6 Q And you never were aware of Fred Zain at  
7 least in the cases you supervised him, ever engaging in  
8 that practice of combining--

9 A No, sir.

10 Q -- different types together? Different  
11 samples together?

12 A No, sir.

13 Q When he would perform the testing in this  
14 case, would you necessarily have watched him go through the  
15 whole process or would you come in at the end and look at  
16 the gel together with him?

17 A I would primarily look at the final result,  
18 not necessarily see every single step.

19 Q Also I think you stated, but I just wanted  
20 to make it clear, you know, you gave your explanation about  
21 how serological testing can tell the difference between  
22 mixtures and a single source. I think you mentioned if the  
23 blood was smeared, would you at least initially be

Page 51

Page 53

1 concerned that that's a mixture if the blood was smeared as  
2 opposed to a single drop?

3 A I would pay a little more attention to the  
4 patterns in the results.

5 Q What is it about a smear that would make you  
6 think that it's at least, you know, you need to be a little  
7 more concerned about the possibility of a mixture versus a  
8 single drop?

9 A Because a smear is more likely to be a  
10 mixture. In other words, you could have a blood stain and  
11 smear another blood stain on top of it and there wouldn't  
12 be any way to tell that. Whereas, a drop is a distinct  
13 pattern and it would be very difficult for a drop to be on  
14 top of a drop without it being very obvious. A smear on  
15 top of a smear, I mean, there's no indication of what  
16 you've got. For a drop to be on top of a drop, there would  
17 be something obviously visible.

18 Q At that time, and again this is December of  
19 '79, at least beginning December of '79, did the laboratory  
20 have a procedure in place where all of your testing  
21 serologically were photographed?

22 A We had the capability of doing it, but I  
23 don't believe it was done on a routine basis. I mean,

1 you involved in any way in that whole Zain investigation?

2 A No, sir.

3 Q Okay. So no one ever contacted you?

4 A Well, I was contacted once about two years  
5 ago by the Kanawha County Prosecutor's Office in regard to  
6 this particular case and that was the only contact I had  
7 whatsoever.

8 Q Okay.

9 A Until you came into it.

10 Q Okay. Do you have any recollection about  
11 what that was about, that conversation was about?

12 A Basically, I was asked since I had signed  
13 the report, I was asked if I supervised the work and I  
14 stated that I had and that I had seen all the results and  
15 basically this had-- they didn't see a problem with that  
16 and that was the end of it.

17 Q Okay.

18 A That was the only contact I had at all.

19 MR. SIMMONS: Okay. That's all.

20 EXAMINATION

21 BY MS. KERSHNER:

22 Q Mr. Murphy, would it be fair to state that--  
23 and I believe you did state this more or less, that the

Page 52

Page 54

1 there was some work done in that regard, but as far as  
2 every single sample being done, no, I don't believe so.

3 Q And going back to your analysis of the  
4 statistics, in your opinion, then, it is appropriate to,  
5 when you're-- let's make it more specific. Let's say you  
6 have a blood drop from the crime scene and you find an ABO  
7 PGM type and let's say the ABO type is the same as some of  
8 the known possible donors of blood at that crime scene, but  
9 the PGM is different from any of the known possible donors.

10 Under that set of facts, in your opinion, it  
11 is appropriate for statistical purposes to multiply the,  
12 you know, the percentage of the population having that  
13 particular ABO type times the percentage of the population  
14 having that particular PGM type?

15 A Right.

16 Q So you would include the ABO type even  
17 though it's the same as some of the known possible donors  
18 of blood at that crime scene?

19 A Right, because the probability is a total  
20 probability and you take all of the characteristics and  
21 include those.

22 Q Okay. Let me just look at one more thing  
23 here and I may be done here. (Examines documents.) Were

1 investigating officers on the Reggettz murders were pretty  
2 certain that they had their man when they arrested Mr.  
3 Reggettz?

4 A Yes.

5 Q Would there have been any advantage to you  
6 or to Mr. Zain to have found results that indicated that a  
7 person other than Mr. Reggettz or the three victims were at  
8 the home at the time of the murders?

9 A No, actually, that would have been to our  
10 disadvantage because finding that kept the investigation  
11 open and if we hadn't found that, everything would have  
12 been cut and dry. It would have been over.

13 Q In fact, did you or Mr. Zain experience any  
14 difficulties as a result of the results you did find?

15 A I wouldn't call it difficulties, but we did  
16 have to convince the detachment commander, the South  
17 Charleston detachment commander, that the investigation was  
18 not over, that there was another person and Mr. Reggettz  
19 had not planted blood at the scene and that they needed to  
20 be looking for someone else, and there was resistance  
21 because they felt they had the person responsible.

22 Q Okay. Did you take the lead in that  
23 persuasion or was Mr. Zain also involved in that?



Division of Public Safety  
(West Virginia State Police)  
725 Jefferson Road  
South Charleston, West Virginia 25309-1698

Gaston Caperton  
Governor

Colonel Thomas L. Kirk  
Superintendent

November 9, 1994

Mary Beth Kershner  
Kanawha County PA Office  
111 Court Street  
Charleston, WV 25301

Dear Ms. Kershner:

Enclosed you will find the material requested regarding the John Moss, III case: reference number C-79-2566.

The enclosed documents are photocopies of the microfilm file. The enclosed documents represent the complete microfilm file.

Sincerely,

A handwritten signature in black ink, appearing to read "T. A. Smith".

T. A. Smith, Supervisor  
Biochemistry Section

TAS/daj  
Enclosure

000002

43. In a report dated June 10, 1980, and signed by Sergeant Robert C. Murphy, the serological typing performed on these known and unknown blood samples was documented.

44. The following tables list the results from this testing.

**TABLE I\***

**KNOWN BLOOD SAMPLES**

<b>PERSON</b>	<b>ABO</b>	<b>PGM</b>	<b>AK</b>	<b>EAP</b>	<b>EsD</b>	<b>ADA</b>	<b>GLO I</b>	<b>Hp</b>	<b>Gc</b>
Vanessa Reggett	<i>O</i>	2+1-	<i>1</i>	B	<i>1</i>	<i>1</i>	<i>2</i>	<i>1</i>	2-1
Bernadette Reggett	<i>O</i>	2+2+	<i>1</i>	B	<i>1</i>	<i>1</i>	<i>2</i>	2-1	2-1
Paul Eric Reggett	<i>O</i>	2+1-	<i>1</i>	B	<i>1</i>	<i>1</i>	<i>2</i>	2-1	2-1
Paul Reggett III	<i>O</i>	2+2-	<i>1</i>	<i>BA</i>	<i>1</i>	<i>1</i>	<i>2</i>	<i>2</i>	2-1
John Moss, III	<i>O</i>	1+1-	<i>1</i>	<i>BA</i>	2-1	<i>1</i>	<i>2</i>	2-1	<i>1</i>

\*The shared blood attributes between Petitioner's known blood types and the blood types of the Reggett family are highlighted in Table I to emphasize the similarities and differences in the known blood types.



**TABLE I\*****KNOWN BLOOD SAMPLES (CONTINUED)**

<b>PERSON</b>	<b>ABO</b>	<b>PGM</b>	<b>AK</b>	<b>EAP</b>	<b>EsD</b>	<b>ADA</b>	<b>GLO I</b>	<b>Hp</b>	<b>Gc</b>
Jack C. Neal, Jr.	?	?	?	?	Not 2-1	?	?	?	?
Roger L. Province	?	?	?	?	Not 2-1	?	?	?	?
William J. Monk	?	?	?	?	Not 2-1	?	?	?	?
Ross E. Gillespie	?	?	?	?	Not 2-1	?	?	?	?
Marvin D. Smith	?	?	?	?	Not 2-1	?	?	?	?
Richard A. Rollins	?	?	?	?	Not 2-1	?	?	?	?
Joseph Morehouse	?	?	?	?	Not 2-1	?	?	?	?
Nathaniel Brown	?	?	?	?	Not 2-1	?	?	?	?
Thomas F. White	?	?	?	?	Not 2-1	?	?	?	?

\*Petitioner has been unable to find any explanation as to why the blood of Jack C. Neal, Jr., Roger L. Province, William J. Monk, Ross E. Gillespie, Marvin D. Smith, Richard A. Rollins, Joseph Morehouse, Nathaniel Brown, and Thomas F. White was tested.

TABLE II\*

## UNKNOWN BLOOD SAMPLES

ITEM	ABO	PGM	AK	EAP	EsD	ADA	GLO I	Hp	Gc
1. Knife pieces	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
2. Room next to bath	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
3. Front bedroom carpet	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
4. Bedspread front bedroom	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
5. Pillow case front bedroom	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
6. Electrical cord	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
7. Kitchen door curtain	<i>O</i>	<i>1+1-</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	<i>2-1</i>	<i>1</i>
8. Sheet kitchen floor	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
9. Back door handle	<i>O</i>	<i>2-1</i>	?	?	?	?	?	?	?
10. Kitchen sink	?	?	?	?	?	?	?	?	?
11. Utensil drawer	<i>O</i>	<i>1</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	?	?
12. Pillow case bedroom beside bath	<i>O</i>	<i>1</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	?	?
13. Door between bedroom and living room	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
14. Door between bedroom and front door	<i>O</i>	<i>1</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	?	?
15. Change purse	<i>O</i>	<i>1</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	?	?
16. Medium t-shirt	<i>O</i>	<i>2-1</i>	?	?	<i>1</i>	?	?	?	?
17. Jockey shorts	?	?	?	?	?	?	?	?	?
18. Vanessa Reggett's nightgown	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?
19. Doll	<i>O</i>	<i>2-1</i>	<i>1</i>	<i>B</i>	<i>1</i>	<i>1</i>	<i>2</i>	?	?

\*The blood types obtained from the unknown blood samples that are identical to the known blood types obtained from Vanessa Reggett, Paul Eric Reggett, Bernadette Reggett, or Paul Reggett, III, are highlighted in Table II.

**TABLE II****UNKNOWN BLOOD SAMPLES (CONTINUED)**

<b>ITEM</b>	<b>ABO</b>	<b>PGM</b>	<b>AK</b>	<b>EAP</b>	<b>EsD</b>	<b>ADA</b>	<b>GLO I</b>	<b>Hp</b>	<b>Gc</b>
Table knife	?	?	?	?	<i>1</i>	?	?	?	?
Christmas wrapping paper	<i>O</i>	<i>1+1-</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	<i>2-1</i>	<i>1</i>
Flashlight	<i>O</i>	<i>1</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	?	?
Clothing of Bernadette Reggett	<i>O</i>	<i>1+1-</i>	<i>1</i>	<i>BA</i>	<i>2-1</i>	<i>1</i>	<i>2</i>	<i>2-1</i>	<i>1</i>

45. Based upon the foregoing typings, the report concludes that the blood stains "identified on items #1 - 6, #8, #13 from the scene, on the nightgown of Vanessa Reggett, and on the doll were consistent with the groupings of Vanessa Reggett's blood and with the groupings of Paul Eric Reggett's blood."

46. The blood stains found on items #9 and #16 were also found to be consistent with the groupings of Vanessa Reggett's blood and Paul Eric Reggett's blood.

47. The report further concluded: "Groupings of the human blood stains identified on items #7, #11, #12, #14, and #15 from the scene, on the Christmas package and wrapping paper, on the flashlight, and on the clothing of Bernadette Reggett were consistent with the groupings of the blood of John Moss and were not consistent with the groupings of any of the other blood specimens submitted."

48. Based upon this testing, Trooper Zain testified that the combination of blood types found on Item No. 15, the change purse, eliminated 99.9 % of the population, meaning that one person in one thousand would have those seven blood types, and that Petitioner was included in the population with that particular combination of seven blood types. (SECOND TRIAL, Tr. 1120).



Form No. 1, D.F.

DEPARTMENT OF PUBLIC SAFETY  
(Criminal Identification Bureau)  
CASE SUBMISSION REPORT

Your Case No. \_\_\_\_\_

C.I.B. CASE NO. 29-2266

From: IPS (Organization) Location: Si. (City) Date: \_\_\_\_\_ 19 \_\_\_\_

Submitted By: \_\_\_\_\_ Rank: \_\_\_\_\_

Subject of Investigation: \_\_\_\_\_

Place of Crime: \_\_\_\_\_ (Town) \_\_\_\_\_ (County)

Date of Crime: \_\_\_\_\_ 19 \_\_\_\_ Time: \_\_\_\_\_ A.M. or P.M., E.S.T. or D.S.T.

Name of Victim: \_\_\_\_\_ DOB: \_\_\_\_\_ Color: \_\_\_\_\_ Sex: \_\_\_\_\_

Address: \_\_\_\_\_

Subject of Investigation: \_\_\_\_\_



DEPARTMENT OF PUBLIC SAFETY  
(Criminal Identification Bureau)  
CASE SUBMISSION REPORT

Your Case No. \_\_\_\_\_

C.I.B. CASE NO. 77-2566

From: State Police (Organization) Location: South Charleston (City) Date: 1-7 19 80

Submitted By: TERRY Williams Rank: Trooper

Subject of Investigation: Murder

Place of Crime: St. Albans (Town) Kearns (County)

Date of Crime: 12 13 19 80 Time: \_\_\_\_\_ A.M. or P.M., E.S.T. or D.S.T.

Name of Victim: Rose Marie Cole DOB: \_\_\_\_\_ Color: \_\_\_\_\_ Sex: \_\_\_\_\_

Address: \_\_\_\_\_

Suspect or Accused: Paul Rosette DOB: \_\_\_\_\_ Color: \_\_\_\_\_ Sex: \_\_\_\_\_

Ht: \_\_\_\_\_ Wt: \_\_\_\_\_ Criminal History: \_\_\_\_\_ Fingerprinted: \_\_\_\_\_

Address: \_\_\_\_\_

Brief Description of Events or Comments: \_\_\_\_\_

List Items Submitted: ① One (1) Sample of blood from Rose Gillip

② One (1) Sample of blood from Marvin David Smith

Examination(s) Desired: \_\_\_\_\_

List Reports Attached: \_\_\_\_\_

Received at C.I.B. by: RCM Via: T Williams

Date: 1-9 19 80 Time: \_\_\_\_\_ A.M. or P.M., E.S.T. or D.S.T.

C.I.B. Disposition of Evidence: \_\_\_\_\_

Approximate Court Date: \_\_\_\_\_

\*\*Pertains to Latent Fingerprint Work Only

NOTE: FORWARD THIS REPORT TO THE C.I.B. IN DUPLICATE WITH ITEMS. ONE COPY WILL BE RECEIPTED AND RETURNED TO SUBMITTER.

000000

(Criminal Identification Bureau)

C.I.B. CASE NO. 79-2566

DPS  
(Organization)

Submitted By:

### Subject of Investigation

Place of Crime

**Date of Crime**

Name of Victim:

## Address

Support or Award:

Hh.

Address

Brief Description of Events  
or Comments:

Use Normal Subscript mode <sup>9</sup>

**Examination (1) Desired:**

**Use Reports Attached:**

Received at C.I.A. H

## Debut

### C.A. Disposition of Evidence:

**Approximate Court Date:**

\* \* Pertaining to Latent Fingerprint Work Only

NOTE: FORWARD THIS REPORT TO THE C.I.B. IN DUPLICATE WITH ITEM, ONE COPY WILL BE RECDPTED AND RETURNED TO SUBMITTER.



Form No. 331 P5

DEPARTMENT OF PUBLIC SAFETY  
(Criminal Identification Bureau)  
CASE SUBMISSION REPORT

Your Case No. \_\_\_\_\_

C.I.B. CASE NO. 79-2566

From: State Police (Organization) Location: South Charleston (City) Date: 4-22 1980

Submitted By: T. Williams Rank: Trooper

Subject of Investigation: Murder

Place of Crime: St Albans (Town) Kanawha (County)

Date of Crime: 12-13 1979 Time: \_\_\_\_\_ A.M. or P.M., E.S.T. or D.S.T.

Name of Victim: Regisette Family DOB: \_\_\_\_\_ Color: \_\_\_\_\_ Sex: \_\_\_\_\_

Address: \_\_\_\_\_

Suspect or Accused: John Mass DOB: \_\_\_\_\_ Color: \_\_\_\_\_ Sex: \_\_\_\_\_

Hi: \_\_\_\_\_ Wt: \_\_\_\_\_ Criminal History: \_\_\_\_\_ Fingerprinted: \_\_\_\_\_

Address: \_\_\_\_\_

Brief Description of Events or Comments: \_\_\_\_\_

List Items Submitted: Two (2) tubes of blood taken from John Mass

Examination(s) Desired: \_\_\_\_\_

List Reports Attached: \_\_\_\_\_

Received at C.I.B. by: Det. Fred A. Zain Via: T. Williams

Date: 4-22 1980 Time: \_\_\_\_\_ A.M. or P.M., E.S.T. or D.S.T.

C.I.B. Disposition of Evidence: \_\_\_\_\_

Approximate Court Date: \_\_\_\_\_

\*\*Pertains to Latent Fingerprint Work Only

NOTE: FORWARD THIS REPORT TO THE C.I.B. IN DUPLICATE WITH ITEMS, ONE COPY WILL BE RECEIVED AND RETURNED TO SUBMITTER.

000000

- #1: Pieces of knife from bedroom beside bath.
- #2: Sample from room next to bath where female victim found.
- #3: Sample from front bedroom carpet.
- #4: Bedspread from front bedroom.
- #5: Pillow case from front bedroom.
- #6: Electrical cord removed from female victim.
- #7: Curtain from back kitchen door.
- #8: Sample from sheet on kitchen floor.
- #9: Sample from outside back door below door handle.
- #10: Sample from kitchen sink.
- #11: Sample from utensil drawer from kitchen.
- #12: Pillow case from bedroom beside bath.
- #13: Sample from door between bedroom and living room.
- #14: Sample from door between master bedroom and front door.
- #15: Change purse from dresser in master bedroom.
- #16: Medium white t-shirt found under pile of clothes in master bedroom.
- #17: Jockey shorts found under pile of clothes in master bedroom.

00000



DEPARTMENT OF PUBLIC SAFETY  
(Criminal Identification Bureau)

## CASE MISSION REPORT

Case No. \_\_\_\_\_ C.I.B. CASE NO. 79 566

At DPS HEADQUARTERS Location: 59, CHARLESTON Date: 12/13 19 79  
(Organization) (City)

Reported By: F. S. ZAIN Rank: TROOPER

Subject of Investigation: MURDER

Name of Criminal: St. Albans, WV (Town) (County)

Date of Crime: 12/12-13/79 19 79 Time: \_\_\_\_\_ A.M. or P.M., E.S.T. or D.S.T.

Name of Victim: VANESSA RUGGETT DOB: \_\_\_\_\_ Color: W Sex: F

Address: 7027 Chesapeake Ave., St. Albans, WV

Name of Accused: Paul Ruggett DOB: \_\_\_\_\_ Color: W Sex: M

Wt. \_\_\_\_\_ Criminal History: \_\_\_\_\_ Fingerprinted: \_\_\_\_\_ Yes

Address: 7027 Chesapeake Ave., St. Albans, WV

Description of Events: Victim was murdered inside her residence.  
Comments: \_\_\_\_\_

Items Submitted: SEE ATTACHED SHEET

Examination(s) Desired: Blood groupings

Reports Attached: \_\_\_\_\_

Received at C.I.B. by: F.S. Zain Date: 12-13 19 79 Time: \_\_\_\_\_ A.M. or P.M., E.S.T. or D.S.T.

B. Disposition of Evidence: \_\_\_\_\_

Approximate Court Date: \_\_\_\_\_  
Pertains to Latent Fingerprint Work Only

NOTE: FORWARD THIS REPORT TO THE C.I.B. IN DUPLICATE WITH ITEMS, ONE COPY WILL BE RECEIPTED AND RETURNED TO SUBMITTER.

000032

reg sub

ITEMS	12-18-79	SP	LU	SP	AP	DJO	S-V	IN	ABO	ESC	PCN	PCN	ALC	EAR	NO	30	PER	IN	TRF	NO	ST	IN
Crime Scene																						
#1 4th St.																						
#8 - 13, 10, 11																						
#9																						
#10																						
#10 + 17																						
#11, 12, 14, 15																						
#7																						
Christmas package																						
wrapper																						
Bum-bette Clothing																						
Flesh 1, 2, 3, 4																						
Case Am. Se																						
12-14-79																						
week clothes																						
(19 items) from P. 100 (M) Fl. 100																						

NOT MURPHY

000000



107 8-0

SP LU SP

10 S-V IN ABO ESD PM POWDERP 22 24 26 28 30 32 34 36 38 40 42 44 46 48 50 52 54 56 58 60 62 64 66 68 70 72 74 76 78 80 82 84 86 88 90 92 94 96 98 100

SHS

Vincent + Clancy

Bernadette

Paul Eric

Paul III

John Moss

Neal

Riviera

Wank

Gilloger

Smith

Rollins

Morhous

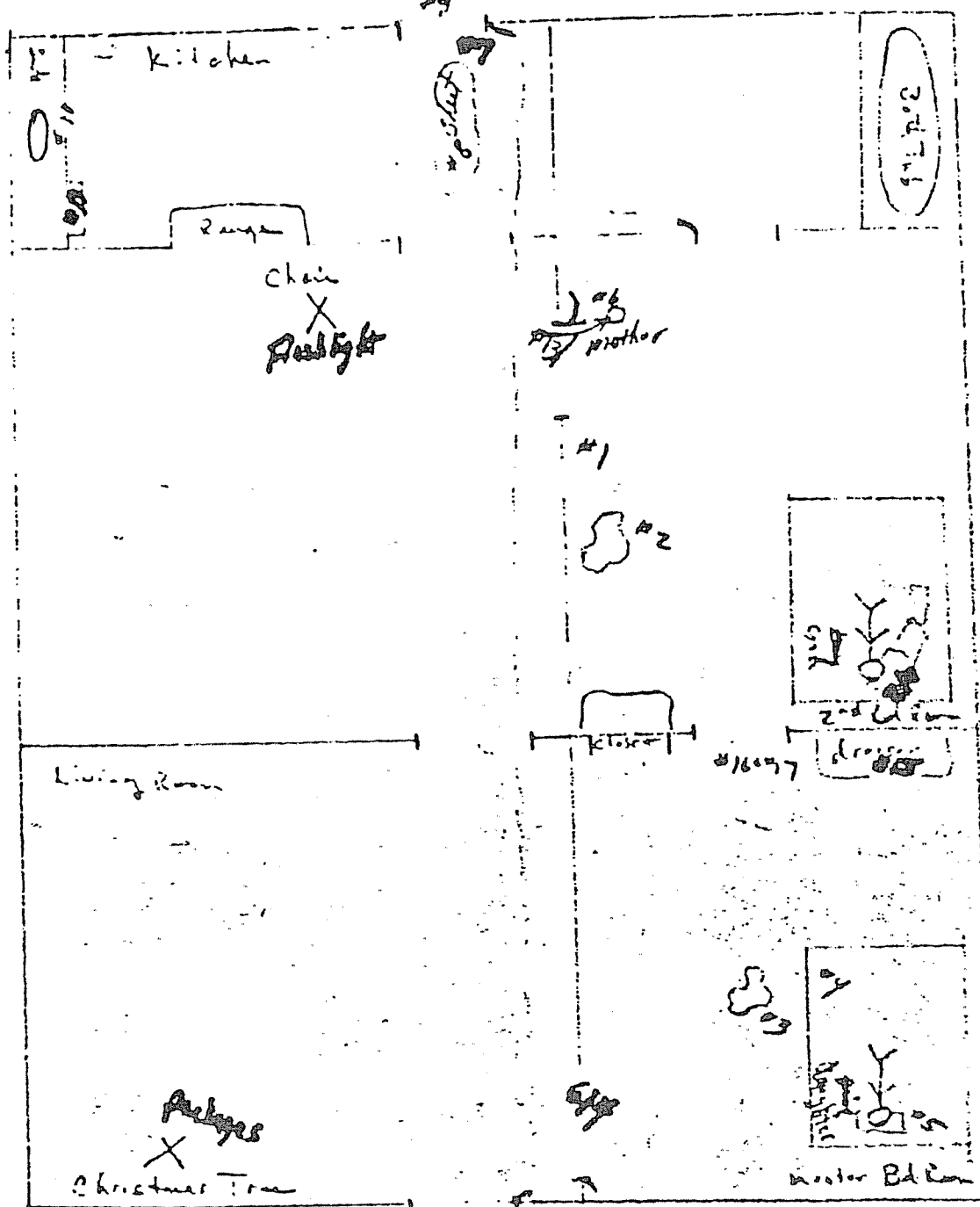
Brown

Ward

NOT MURPHY

Crime Scene  
12-13-77

Ragazzi. Raccolta



00000



Women	Pgm		man
Paul	(261)	1, 2-1.	1, 2-1
Gail	(2)	2	1, 2-1
			1 2

2 (2), 2-1

Pgm 1

(2) —

NOT MURPHY

